

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Joshua Brickell	Team: Team # 6	CCRB Case #: 201401715	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 02/15/2014 11:40 PM	Location of Incident: Sutter Avenue and 78th Street	Precinct: 106	18 Mo. SOL 8/15/2015	EO SOL 8/15/2015	
Date/Time CV Reported Sat, 02/15/2014 11:50 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 02/21/2014 1:30 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Sean Downes	03978	918975	075 PCT
2. POM Thomas Little	24750	953001	075 PCT
3. Officers			075 PCT
4. POM David Bunyi	02507	946808	075 PCT
5. An officer			075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Thomas Ormond	03265	920681	075 PCT
2. POM Bryan Jones	02916	952903	075 PCT
3. POM Stephen Barnes	17944	952442	075 PCT
4. POM Algenis Pena	00846	953228	075 PCT
5. POM Mario Gandini	18623	934895	075 PCT
6. POM Brian Christen	05111	945586	075 PCT
7. POM Melchor Alban	08328	939851	075 PCT
8. POM Derek Stebel	26408	946292	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Thomas Little	Abuse: PO Thomas Little drew his gun.	
B.SGT Sean Downes	Abuse: Sgt. Sean Downes drew his gun.	
C.SGT Sean Downes	Force: PO Sean Downes struck § 87(2)(b) with a radio.	
D.POM Thomas Little	Force: PO Thomas Little used physical force against § 87(2)(b)	
E.POM Thomas Little	Force: PO Thomas Little used physical force against § 87(2)(b)	
F.POM David Bunyi	Force: PO David Bunyi used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
G. Officers	Force: Officers used physical force against § 87(2)(b)	[REDACTED]
H. An officer	Force: An officer used physical force against § 87(2)(b) and § 87(2)(b)	[REDACTED]

Case Summary

On February 15, 2014, Sgt. Sean Downes filed the following complaint with the Internal Affairs Bureau (IAB) via telephone on behalf of § 87(2)(b) and § 87(2)(b). The complaint was received by the Civilian Complaint Review Board (CCRB) on February 21, 2014. On February 15, 2014, § 87(2)(b) and § 87(2)(b) were arrested at a vehicle stop at the corner of Sutter Avenue and 78th Street in Queens, and the following allegations resulted:

Allegation A – Abuse of Authority: PO Thomas Little drew his gun.

Allegation B – Abuse of Authority: Sgt. Sean Downes drew his gun.

Allegation C – Force: PO Sean Downes struck § 87(2)(b) with a radio.

§ 87(2)(g)

Allegation D – Force: PO Thomas Little used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation E – Force: PO Thomas Little used physical force against § 87(2)(b)

Allegation F – Force: PO David Bunyi used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation G – Force: Officers used physical force against § 87(2)(b)

Allegation H – Force: An officer used physical force against § 87(2)(b) and

§ 87(2)(b)

§ 87(2)(g)

Because all civilians were arrested, this complaint was ineligible for mediation.

Results of Investigation

Vehicle Occupants and Positions

The occupants and their relative positions in the motor vehicle at the time of the incident are listed below:

§ 87(2)(b) – driver seat

§ 87(2)(b) – front passenger seat

§ 87(2)(b) – rear driver-side seat

§ 87(2)(b) – rear middle seat

§ 87(2)(b) § 87(2)(b) old son of § 87(2)(b) – rear middle seat § 87(2)(b) s lap)

§ 87(2)(b) § 87(2)(b) -old-son of § 87(2)(b) – rear passenger-side seat

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b)

Arrest Photograph (encl. 15D)

§ 87(2)(b)'s arrest photograph shows an abrasion in the middle of his chin. There are no other visible injuries.

Statements to Medical Personnel:

“A § 87(2)(b) old male in police custody complains of facial abrasion, scalp hematoma. Patient states that he was assaulted by police.”

CCRB Statement:

On February 15, 2014, § 87(2)(b) provided a telephone statement (encl. 10). On February 16, 2014, he was interviewed by IAB (encl. 00 – P). On February 19, 2014, a follow-up interview was conducted by IAB (encl. 0B2 – C2). On May 6, 2014, § 87(2)(b) was interviewed at the CCRB (encl. 11A – C). On May 19, 2014, § 87(2)(b) gave testimony for a notice of claim (encl. 12A – F). § 87(2)(b) blacked out at various times during the incident, and the sequence of events in his statement was inconsistent and difficult to follow. His statements were generally consistent, and are summarized below with any discrepancies noted.

On February 15, 2014, at approximately 10:30 p.m., § 87(2)(b) and his brother, § 87(2)(b) arrived at a birthday party for § 87(2)(b) at his residence, located on Newport Avenue in Queens. § 87(2)(b) and their uncle, § 87(2)(b) had been drinking at the party and were intoxicated. § 87(2)(b) and § 87(2)(b) did not consume any drugs or alcohol at the party (In his first IAB statement, he said that he had a sip of vodka at the party.). § 87(2)(b) and § 87(2)(b) left the party at approximately 11:15 p.m. As § 87(2)(b) drove southbound on Belmont Avenue, a marked RMP passed by them at Doscher Street, backed up and began following them. The officers turned on their turret lights and sirens at the intersection of 77th Street and Sutter Avenue, and he pulled over between 77th Street and 78th Street in Queens.

Two uniformed officers immediately exited the vehicle with their guns drawn and flashlights out (§ 87(2)(b) did not allege that the officers had their guns drawn in his telephone statement, his statements to IAB, or his notice of claim.). The first officer, who § 87(2)(b) described as a white male in his late thirties, 5’10” tall, with a slim to medium build, and black, spiky hair, identified via the investigation as PO Thomas Little, stopped by the rear driver’s side door. The second officer, who § 87(2)(b) described as a white male in his thirties, 5’7” tall, with a stocky build and buzz-cut hair, identified via the investigation as Sgt. Sean Downes, approached § 87(2)(b) on the passenger side. PO Little shined his flashlight in § 87(2)(b)’s eyes, and told him to turn off the vehicle and keep his hands on the steering wheel. He could not see where PO Little’s gun was pointed because the flashlight was in his eyes. PO Little asked § 87(2)(b) for his license and registration, which he provided, and PO Little returned to his RMP.

§ 87(2)(b) held a cigarette out the window, and Sgt. Downes told him to drop the cigarette. § 87(2)(b) refused to do so, and Sgt. Downes said, “Throw the fucking cigarette out.” Sgt. Downes

opened § 87(2)(b) door, unbuckled his seatbelt, and pulled him out of the vehicle, one hand on his shirt and the other underneath his right armpit, and brought him to the rear of the vehicle. § 87(2)(b) heard a loud bang, looked back and saw § 87(2)(b) on the trunk of the vehicle. He still had the cigarette in his mouth, and did not flick it at Sgt. Downes. Sgt. Downes rearcuffed § 87(2)(b) and PO Little walked over to him and punched him in the back of the head two to four times. Sgt. Downes punched § 87(2)(b) in the head and back a couple of times, and then punched him in the back of the head twice (In his telephone statement § 87(2)(b) said that PO Little and Sgt. Downes “beat” § 87(2)(b) however, he did not provide any details. In his first IAB statement, § 87(2)(b) said that he did not see either officer strike § 87(2)(b). There was no mention of § 87(2)(b) in his notice of claim statement). § 87(2)(b) did not resist in any way. Sgt. Downes brought § 87(2)(b) to his RMP and placed him inside.

At about the same time, § 87(2)(b) exited the vehicle with his iPhone in his hand and tried to record the incident, although he was unable to do so. PO Little told § 87(2)(b) to give him the phone, and he placed the phone in his pocket. § 87(2)(b) did not recall the exact sequence and said that he blacked out for a portion of the interaction, however, he ended up on his knees. He initially said PO Little punched him in the face and that he fell to his knees. § 87(2)(b)'s face also made contact with the ground, and PO Little punched him in the head a couple of times. He tried to cover his face with his hands, and PO Little told him to put his hands down. He was alternately punched in the ribs and the head. § 87(2)(b) tried to get up from his knees, and PO Little hit § 87(2)(b) for approximately five minutes before handcuffing him (In his telephone statement § 87(2)(b) said that he was hit eight to ten times while he was on the ground. In his first IAB statement, he said that PO Little punched him in the back of the head one time and pushed him up against the vehicle. He was punched in the back of the head and the ribs approximately ten times, placed in handcuffs, and was then tripped to the ground, causing him to sustain an abrasion on his chin. In his second IAB statement, he said that PO Little threw him to the ground, punched and kicked him several times, and then handcuffed him. In his notice of claim, § 87(2)(b) said that he was repeatedly struck in the head and body before and after he was handcuffed, that officers struck him with an asp and kicked him in the ribs, and that he was repeatedly struck in the head while handcuffed in the RMP.). § 87(2)(b) denied striking any of the officers during the physical interaction. He was taken to an RMP and placed inside.

Unknown officers hit § 87(2)(b) a number of times and put him into the RMP with § 87(2)(b). § 87(2)(b) was pulled out of the vehicle by his legs by four, uniformed officers, who § 87(2)(b) was unable to describe. § 87(2)(b) was still unconscious when he was pulled out of the vehicle, however, he woke up when his head hit the ground (In his initial IAB statement, § 87(2)(b) said that two white, male officers pulled § 87(2)(b) out of the vehicle, but that he was conscious at the time. In his notice of claim, § 87(2)(b) alleged that officers pulled § 87(2)(b) who was sleeping at the time, out of the vehicle and repeatedly struck him on the face and body with their fists and asps.). § 87(2)(b) rolled himself over and laid spread eagle on the ground with his arms at ten and two o'clock, and tried to push himself up from the ground. § 87(2)(b) initially said that there were fifteen officers beating § 87(2)(b) during the incident, but later said that four officers kicked him in the ribs and head, and continued to do so for approximately five minutes (In his initial IAB statement, § 87(2)(b) said that fifteen unidentified officers punched and stepped on § 87(2)(b)'s face.).

At approximately the same time that the officer pulled § 87(2)(b) and § 87(2)(b) out of the vehicle, § 87(2)(b) used his cell phone to call his aunt “§ 87(2)(b)”. He told her that they were being arrested and asked her to come to the scene. A third uniformed officer that had arrived in the second

RMP, who § 87(2)(b) described as a forty-five-year old, bald, white male, who was not identified via the investigation, said, “Oh you got a phone,” opened the door, and punched § 87(2)(b) in the ear one time (In his telephone statement § 87(2)(b) said that the officer punched him three to four times.). His partner, who § 87(2)(b) described as a white male with red hair, who was not identified via the investigation, opened the other door to the RMP and punched § 87(2)(b) in the back of the head two or three times § 87(2)(b) did not make this allegation in his telephone statement, or either IAB statement.). The third officer took the phone from § 87(2)(b) and demanded the password because he thought that there was video footage on it. § 87(2)(b) told § 87(2)(b) to put in the code for him, and he unlocked the phone. The third officer punched § 87(2)(b) and fourth officer punched § 87(2)(b) again § 87(2)(b) also did not make these force allegations in his telephone statement.). Approximately five minutes after he called his aunt, § 87(2)(b) s sister, § 87(2)(b) arrived on scene with her fiancé, § 87(2)(b) Unknown. The officers were still hitting § 87(2)(b) at that time.

There were at least three marked cars and a van on scene, and a large number of uniformed officers. An ambulance arrived to transport § 87(2)(b) from the scene, and he was placed on a gurney for transport. § 87(2)(b) asked for medical treatment at the 75th Precinct and was taken to § 87(2)(b) Hospital. He told the doctor that he had blurred vision and bumps on his head. He was taken back to the stationhouse, and was transported to Central Booking approximately eleven hours after the incident. § 87(2)(b) denied striking an officer at any point, and did not see § 87(2)(b) or § 87(2)(b) do so. § 87(2)(b) received a “busted lip,” bumps on his head, and a cracked front, left tooth as a result of the incident. § 87(2)(b) received stitches on both the inside and outside of his mouth, and around both eyes, as well as rug burn on his face. § 87(2)(b) and § 87(2)(b) did not have any injuries.

Photographic Array (encl. 14A – B)

On February 19, 2014, IAB conducted a photo array with § 87(2)(b) He identified PO Little, and said, “He was there, I think he hit me.” He also identified Sgt. Downes, however, he did not specify any allegations against him. § 87(2)(b) also identified three filler officers as either being on scene or at the stationhouse.

Victim: § 87(2)(b)

- *On the date of the incident,* § 87(2)(b) *was* § 87(2)(b).

Statements to IAB:

On February 16, 2014, § 87(2)(b) was interviewed by IAB (encl. 0N1 – L1). His statement is summarized below.

§ 87(2)(b) corroborated that he and his relatives were stopped by Sgt. Downes and PO Little at 78th Street and Sutter Avenue. § 87(2)(b) had consumed a single Hennessey drink prior to the stop, and was smoking a cigarette. PO Little and Sgt. Downes approached the vehicle. § 87(2)(b) did not say anything in his IAB statement about the officers having their guns drawn. Sgt. Downes told § 87(2)(b) to throw the cigarette away. He refused, and Sgt. Downes opened the door, pulled him out of the vehicle, and threw him up against the rear of the vehicle. He pushed § 87(2)(b) onto the street, and hit § 87(2)(b) on the head two times with a radio. § 87(2)(b) exited the vehicle and told the officers that their actions were not necessary. PO Little pushed § 87(2)(b) up against the vehicle, causing him to fall and chip a tooth.

§ 87(2)(b) was unable to see what happened to § 87(2)(b). Some of the officers, who § 87(2)(b) could not describe, removed § 87(2)(b) from the vehicle. § 87(2)(b) was on the other side of the vehicle and was unable to see anything else, however, he heard § 87(2)(b) yell, “Get the fuck off my brother,” and then scream in pain. § 87(2)(b) did not see what happened to § 87(2)(b). He was unable to provide any additional details regarding the incident. § 87(2)(b) arrest photograph shows a small abrasion on the left side of his face beneath his lower lip. The photographs taken by IAB do not show any visible injuries, including the spot on his head where he was allegedly hit with a radio (encl. 16G). Additionally, the detectives that interviewed § 87(2)(b) (a few hours after the incident) noted that there were no visible injuries at the alleged point of contact.

Victim: § 87(2)(b)

- *On the date of the incident,* § 87(2)(b) *was* § 87(2)(b).

Arrest and IAB Photographs (encl. 17D, 47G – I)

§ 87(2)(b)'s arrest photograph and the photographs taken by IAB show multiple abrasions/lacerations on his face, including above his right eyebrow, on the tip of his nose, his chin, the right side of his face beneath his lower lip, his left cheek, and his left ear. He also had a laceration to the inside, right lip, for which he received stitches.

Statements to IAB:

On February 16, 2014, § 87(2)(b) was interviewed by IAB (encl. 0I – J). His statement is summarized below.

§ 87(2)(b) corroborated the circumstances of the stop. He did not say anything about the officers having their guns drawn. § 87(2)(b) was pulled out of the vehicle and an unidentified officer pushed his face into the ground, causing him to black out. He sustained a cut inside the right-side of his bottom lip, a cut below the bottom lip, cuts above both left and right eyebrows, and experienced chest pain. § 87(2)(b) was unable to provide any additional details.

Victim: § 87(2)(b)

- *On the date of the incident,* § 87(2)(b) *was* § 87(2)(b).

Arrest and IAB Photographs (encl. 18D – F)

§ 87(2)(b)'s arrest photograph and the photographs taken by IAB do not show any visible injuries.

Statements to IAB:

On February 16, 2014, § 87(2)(b) was interviewed by IAB (encl. 0L – M). On February 19, 2014, a follow-up interview was conducted by IAB (encl. 0Z1). His statements were generally consistent, and are summarized below with any inconsistencies noted.

§ 87(2)(b) corroborated the circumstances of the stop. Sgt. Downes and PO Little approached their vehicle and stood by the back doors. § 87(2)(b) did not say anything about the officers having their guns drawn. PO Little asked § 87(2)(b) for his documentation, and he complied. § 87(2)(b) was smoking a cigarette, and Sgt. Downes asked him to put it out. § 87(2)(b) who had been drinking that night, asked if it was illegal to smoke and flicked the ashes out the window. § 87(2)(b) did not indicate whether the ashes hit Sgt. Downes. Sgt. Downes opened

the door, grabbed § 87(2)(b) pulled him out of the vehicle and pushed him up against the side of the vehicle by the rear passenger door. § 87(2)(b) and Sgt. Downes went to the ground and out of view. Sgt. Downes punched § 87(2)(b) in the back of the neck. § 87(2)(b) did not indicate how he was able to see this if they were out of view.).

§ 87(2)(b) exited the vehicle and asked what the officers were doing. PO Little slammed § 87(2)(b) against the side of the vehicle. He was taken toward the back of the vehicle before going to the ground. § 87(2)(b) who was intoxicated, woke up and tried to exit the vehicle. As he got one leg out of the vehicle, PO Little yanked him out of the vehicle and punched him in the left side of the face by his mouth/cheek area. § 87(2)(b) lost consciousness, fell backwards, and hit the back of his head on the ground. PO Little turned § 87(2)(b) over to handcuff him, however, § 87(2)(b) had his arms to the sides and refused to allow the officers to handcuff him (There was no explanation of how he did so if he was unconscious.).

Approximately ten officers, who § 87(2)(b) was unable to describe, kicked § 87(2)(b) in the back of the head and the face approximately six or seven times. § 87(2)(b) did not see him get handcuffed. An officer, who § 87(2)(b) was unable to describe, struck § 87(2)(b) with a nightstick while he was on the ground. The same officer struck § 87(2)(b) in the back and arms with the nightstick while he was on the ground.

§ 87(2)(b) was placed in the back of an RMP with § 87(2)(b) made a phone call and an officer, who § 87(2)(b) could not describe, saw him on the phone and swung his arms at him. Another male officer, who § 87(2)(b) could not describe, swung his arms at § 87(2)(b) and he and § 87(2)(b) both covered their heads. § 87(2)(b) was punched one time in the back of the head, and § 87(2)(b) was punched in the face. § 87(2)(b) did not sustain any injuries.

Attempts to Contact Civilians (encl. 49A – 54L)

On March 11, 2014, § 87(2)(b) scheduled himself and his three family members for an interview, however, they all failed to appear. On April 15, 2014, the undersigned spoke with § 87(2)(b) and scheduled him and his other family members for April 21, 2014. He was unable to provide any additional contact information for them at that time. No one appeared for an interview on April 21, 2014. § 87(2)(b) appeared for an interview on May 6, 2014, but was unable to provide contact information for § 87(2)(b) and his sister, § 87(2)(b) and her fiancé, § 87(2)(b) who he named as witnesses. The undersigned asked § 87(2)(b) numerous times to provide contact information for his relatives, however, he failed to do so. The undersigned also asked § 87(2)(b) to have his relatives call the undersigned, however, to date, they had failed to do so. The undersigned sent multiple letters to the addresses obtained for § 87(2)(b) and § 87(2)(b) via the arrest reports, and called the numbers listed for each. A check of the NYCS Department of Corrections was negative for all of them. The undersigned left messages and sent letters to § 87(2)(b) based on a Lexis Nexis report obtained for her. To date, none of the above-mentioned people had contacted the CCRB.

§ 87(2)(b) also identified § 87(2)(b) s § 87(2)(b)-old son, and § 87(2)(b) § 87(2)(b) s § 87(2)(b)-old son, as being in the vehicle at the time of the stop. Without cooperation from § 87(2)(b) or § 87(2)(b) the investigation was unable to interview either of the children. Similarly, without cooperation from § 87(2)(b) the investigation was unable to identify or interview her fiancé, § 87(2)(b)

NYPD Statements:

Subject Officer: PO THOMAS LITTLE

- *On the date of the incident, PO Little was § 87(2)(b).*
- *PO Little was Sgt. Sean Downe's operator, worked from 6:30 p.m. on February 15, 2014, until 12:49 p.m. on February 16, 2014, was assigned to marked RMP 4525, and was in uniform.*

Memo Book (encl. 19A – F)

At 11:40 p.m., vehicle, occupied by four males and two children, stopped at intersection of Sutter Avenue and 78th Street. At 11:55 p.m. a call for additional units was transmitted. At 12:04 a.m. there were four under. § 87(2)(b) was transported to § 87(2)(b) Hospital. At 2:05 a.m. PO Little was present at § 87(2)(b) Hospital. PO Little was Line of Duty designation from February 17 until February 24, 2014.

AIDED Report (encl. 20)

PO Little was diagnosed with lacerations, contusion and swelling to the left and right hands, and a hairline fracture to his left hand (See enclosure for narrative).

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

CCRB Statement:

On August 13, 2014, PO Little was interviewed at the CCRB (encl. 21A – C). His statement is summarized below.

On February 15, 2014, at approximately 11:40 p.m., PO Little and Sgt. Downes observed a Nissan Altima fail to signal while turning onto Conduit Avenue, and pulled them over at the intersection of Sutter Avenue and 78th Street. PO Little approached the driver's side of the

vehicle and Sgt. Downes approached the passenger side. Neither officer had their gun drawn. There was an adult male in each of the two front and rear seats. PO Little later found out that there were two children in the rear passenger seat of the vehicle, and that neither was wearing a seatbelt or proper restraints. PO Little stood behind the passenger window on the driver's side so as not to give away his position to the passengers. The passenger side window was open, and he instructed the driver, § 87(2)(b) to provide his license, registration and proof of insurance. § 87(2)(b) was initially compliant.

Sgt. Downes told the front passenger, § 87(2)(b) multiple times to put out his cigarette, but § 87(2)(b) refused to do so. Sgt. Downes did not tell § 87(2)(b) to, "Throw the fucking cigarette out." § 87(2)(b) said, "Here's my cigarette," and flicked it at Sgt. Downes' face. Sgt. Downes asked § 87(2)(b) for his identification in order to issue him a summons for littering. § 87(2)(b) refused to do so, and reached between the center console and his seat with his left hand, which PO Little said was consistent with him reaching for something or hiding something. Sgt. Downes removed § 87(2)(b) from the vehicle in order to arrest him, however, PO Little did not recall how § 87(2)(b) was removed from the vehicle. § 87(2)(b) resisted by kicking and flailing his arms, and PO Little went over to the passenger side of the vehicle to assist Sgt. Downes. One of § 87(2)(b) hands was already cuffed, and PO Little pulled the other hand behind his back and cuffed it. PO Little did not see Sgt. Downes punch § 87(2)(b).

PO Little walked back toward the driver's side of the vehicle. § 87(2)(b) and § 87(2)(b) exited the vehicle. PO Little instructed the individuals numerous times to get back into the vehicle, but they refused to do so. § 87(2)(b) approached PO Little with his fists clenched in a fighting position. His eyes were glazed over, which led PO Little to believe that he was intoxicated. PO Little punched § 87(2)(b) in the face one time, and § 87(2)(b) fell to his knees. PO Little pushed him onto his stomach and attempted to handcuff him. § 87(2)(b) flailed his arms, threw punches and kicked his feet at PO Little, and spit at him, refusing to be handcuffed. PO Little knelt next to § 87(2)(b) and tried to pull his hands behind his back in order to handcuff him. § 87(2)(b) rolled onto his side, preventing PO Little from handcuffing him, and punched PO Little in the chest. Sgt. Downes called for additional units at about this time. PO Little feared for his life because he was fighting with § 87(2)(b) and § 87(2)(b) and § 87(2)(b) were not apprehended. Sgt. Downes had § 87(2)(b) in handcuffs at the rear of the vehicle, however PO Little was focused on § 87(2)(b) and § 87(2)(b) and did not see what Sgt. Downes was doing.

PO Little continued to struggle with § 87(2)(b) and said that every time § 87(2)(b) punched him he either punched him back, or tried to pull his hands behind his back. § 87(2)(b) continued to resist and pulled out of PO Little's grasp numerous times. PO Little was finally able to get a knee onto § 87(2)(b)'s back at about the time that additional officers arrived, and they assisted PO Little in apprehending § 87(2)(b) by pulling his hands behind his back and holding his legs down to prevent him from kicking. PO Little denied kicking § 87(2)(b) and none of the other officers punched or kicked him. PO Little did not recall how long the physical interaction lasted. At least two marked RMPs arrived on scene, however, PO Little did not recall which officers arrived. PO Little brought § 87(2)(b) to his feet, and he continued to struggle by swaying off of his center of gravity. He was taken to an ambulance that arrived on scene and transported to § 87(2)(b) Hospital for injuries that he sustained during the physical altercation. When shown the arrest photograph, PO Little said that he did not recall the specific injuries, but that they were likely consistent with what he saw at the incident location.

§ 87(2)(b) and § 87(2)(b) both kicked PO Little in the leg at some point during the incident, however, he did not recall whether it was during the physical altercation with § 87(2)(b) or after they were in handcuffs. PO Little did not have any direct physical interaction with § 87(2)(b) or § 87(2)(b) had lacerations on his mouth, however, PO Little did not see how these were sustained, and did not see any officer strike § 87(2)(b). PO Little did not transport § 87(2)(b) or § 87(2)(b) from the scene, or place them in an RMP for transport. He did not see who did so, and did not go near the vehicles that they were transported in prior to leaving the scene. PO Little did not see any officer punch either of them in the face inside an RMP.

PO Little called ACS because there were two children in the vehicle improperly restrained, and the adults that they were with were acting violently and in a criminal manner. There was a female relative on scene, identified by PO Little as § 87(2)(b). She spoke with a number of officers, who instructed her to go to the 75th Precinct stationhouse in order to take custody of the two children. PO Little arrived at the 75th Precinct stationhouse at 12:30 p.m. on February 16, 2014, and processed all four arrests. He did not recall whether § 87(2)(b) or § 87(2)(b) were intoxicated. § 87(2)(b) requested medical attention, and PO Little called an ambulance to the stationhouse and § 87(2)(b) was transported to § 87(2)(b) Hospital. At 2:05 a.m., PO Little went to § 87(2)(b) Hospital. § 87(2)(b) were conducted on his hand, and he was diagnosed with a bone bruise, a minor fracture and lacerations, however, he was later told that he was misdiagnosed and that it was simply soft tissue damage.

Subject Officer: SGT. SEAN DOWNES

- *On the date of the incident, Sgt. Downes was § 87(2)(b)*
- *Sgt. Downes worked the same tour and assignment as PO Thomas Little.*

Memo Book (encl. 22A – D)

Sgt. Downes memo book entries were virtually identical to PO Little's.

CCRB Statement:

On July 30, 2014, Sgt. Downes was interviewed at the CCRB (encl. 23A – C). His statement was generally consistent with PO Little's, and is summarized below.

Sgt. Downes corroborated everything preceding the vehicle stop. Sgt. Downes and PO Little exited their vehicle and approached the vehicle. PO Little approached the driver's side, and Sgt. Downes approached the passenger side. Sgt. Downes did not have his gun drawn, however, he was unable to see if PO Little did so. Sgt. Downes was two to three feet away from the vehicle when the front passenger, § 87(2)(b) flicked a lit cigarette at Sgt. Downes, hitting him in the stomach. Sgt. Downes did not say anything to § 87(2)(b) before he flicked the cigarette, and he denied saying, "Throw the fucking cigarette out."

Sgt. Downes told § 87(2)(b) to step out of the vehicle, and he responded, "Fuck you." Sgt. Downes repeated the directive, however, § 87(2)(b) again verbally refused to exit the vehicle. Sgt. Downes told § 87(2)(b) to open the door of the vehicle, but he did not respond. Sgt. Downes saw that the door was unlocked, opened the door and told § 87(2)(b) to step out of the vehicle. § 87(2)(b) initially refused to do so, however, after an unknown amount of time he exited the vehicle. § 87(2)(b) and § 87(2)(b) were directed to remain in the vehicle. Sgt. Downes walked § 87(2)(b) to the rear of the vehicle and told him to turn around and place his hands behind his back. § 87(2)(b) refused to do so, and Sgt. Downes grabbed § 87(2)(b) and

turned him around. He did not recall specifically how he did so, and he did not recall whether he pushed § 87(2)(b) against the vehicle. Sgt. Downes tried to handcuff § 87(2)(b) however, § 87(2)(b) cursed at Sgt. Downes and physically resisted by flailing and swinging his arms at Sgt. Downes, kicking Sgt. Downes' legs, and trying to push Sgt. Downes off of him and turn back around. Sgt. Downes described § 87(2)(b) as combative, however, he did not recall whether § 87(2)(b) was intoxicated. Sgt. Downes called for additional units, and forced § 87(2)(b) to keep his back to him, however, he did not recall specifically how he did so.

PO Little walked over to assist Sgt. Downes, and briefly helped restrain § 87(2)(b) however, Sgt. Downes did not recall specifically what PO Little did. One of the passengers, identified via the investigation as § 87(2)(b) exited the vehicle and PO Little went to interdict him. PO Little and § 87(2)(b) were in the street, and § 87(2)(b) balled his hands up into fists, squared up in an aggressive manner, and swung his fists at PO Little. Sgt. Downes was only able to see part of the physical altercation, as he was still attempting to apprehend § 87(2)(b). He did not see whether § 87(2)(b) made physical contact with PO Little. § 87(2)(b) and § 87(2)(b) exited the vehicle and also began fighting with PO Little. PO Little was wrestling with them, and they were throwing punches at him, however, Sgt. Downes was unsure what force PO Little used.

Sgt. Downes was eventually able to handcuff § 87(2)(b) however, he was unsure exactly how he was able to overcome the physical resistance, or how long the interaction lasted. He did not recall whether he punched § 87(2)(b). He was unable to remove § 87(2)(b) from the area because PO Little was still fighting with the other individuals. § 87(2)(b) was lying on the ground in handcuffs, however, Sgt. Downes did not recall how he got to the ground. § 87(2)(b) tried to get up from the ground and Sgt. Downes held him down so that he could not do so.

A few minutes after the request for additional units went over the radio, an unknown number of officers arrived by vehicle, however, Sgt. Downes did not recall which officers arrived. They assisted PO Little in apprehending the other individuals. Sgt. Downes did not see any officer use force against the individuals. He denied seeing a group of officers standing around an individual on the ground and kicking him repeatedly. Sgt. Downes attempted to help PO Little apprehend the other individuals, however, he did not recall if he had any contact or used any force against them. None of the individuals were forcibly removed from the vehicle or punched while they were sitting in an RMP.

Sgt. Downes and PO Little transported § 87(2)(b) to the 75th Precinct stationhouse from the scene. Sgt. Downes smelled alcohol around the civilian vehicle, however, he did not know the source, and he was unable to determine if any of the individuals arrested were intoxicated. An ambulance was called to the scene for § 87(2)(b) who Sgt. Downes identified via his arrest photograph. Sgt. Downes confirmed that the injuries to § 87(2)(b)'s face were consistent with those in his arrest photograph, however, he did not know how he sustained them. § 87(2)(b) was removed to § 87(2)(b) Hospital. Sgt. Downes did not observe injuries on anyone else at the scene. § 87(2)(b) and § 87(2)(b) § 87(2)(b) were in the vehicle, however, Sgt. Downes did not see them until the incident was concluded. They were transported to the stationhouse by PO Jones and Sgt. Ormond.

Subject Officer: PO DAVID BUNYI

Witness Officer: PO DEREK STEBEL

- *On the date of the incident, PO Bunyi was* § 87(2)(b)

- *On the date of the incident, PO Stebel was § 87(2)(b)*
- *PO Bunyi and PO Stebel were assigned to Sector H/I.*

Memo Books (encl. 24A – C, 26A – C)

At 11:56 p.m. Impact Sergeant called a 10-85 at Sutter and 78th Street. At 12:06 a.m. PO Bunyi assisted Impact East Sergeant in submitting combative perpetrator.

CCRB Statements:

On September 26, 2014, PO Bunyi was interviewed at the CCRB (encl. 25A – B). On October 14, 2014, PO Stebel was interviewed at the CCRB (encl. 27A – B). Their statements are generally consistent, and are summarized below with any discrepancies noted.

PO Bunyi and PO Stebel arrived on scene at 11:57 p.m. PO Bunyi parked the vehicle behind a marked RMP with the turret lights engaged, and PO Stebel and PO Bunyi exited the vehicle. PO Stebel observed at least two officers, including Sgt. Downes and PO Little, wrestling with § 87(2)(b) on the ground. PO Bunyi also observed several police officers wrestling with civilians, however, he did not recognize any of them from their arrest photographs. PO Bunyi went to assist Sgt. Downes and PO Little. They grabbed § 87(2)(b)'s hands, arms and body and attempted to pull his hands behind his back in order to handcuff him. § 87(2)(b) was face-down, and PO Bunyi attempted to apply his bodyweight to his back to get his hands behind his back. § 87(2)(b) was combative and pulled his hands away from the officers, grabbed onto them, and tried to get up from the ground. After three to four minutes the officers were able to handcuff § 87(2)(b). PO Bunyi did not punch or kick him, and did not recall any officer doing so.

PO Stebel moved toward the right side of the vehicle to interdict another individual, identified via the investigation as § 87(2)(b) and he only saw the interaction with § 87(2)(b) for a few seconds. He saw § 87(2)(b) moving his body on the ground, and the officers attempting to handcuff him. PO Stebel did not have a clear line of sight, and as such he did not see any officer use any force against § 87(2)(b). PO Stebel approached § 87(2)(b) from behind. § 87(2)(b) was yelling over the vehicle at the officers, and PO Stebel grabbed his arms. He realized that § 87(2)(b) was approximately § 87(2)(b) years old, and was not a threat to the officers. PO Stebel saw a second child who was approximately § 87(2)(b) years old, identified via the investigation as § 87(2)(b) and instructed § 87(2)(b) to get back into the vehicle and calm § 87(2)(b) down. § 87(2)(b) complied and PO Stebel went to the left side of the vehicle to assist in apprehending § 87(2)(b). § 87(2)(b) was already handcuffed when PO Stebel got to the left side of the vehicle.

PO Bunyi did not witness the other arrests take place, and did not see any officer punch or kick any individual. PO Stebel saw another adult male on scene, however, he did not recall whether he was arrested. PO Bunyi and PO Stebel did not have any further physical interaction with any civilian. They did not punch any individual that was seated inside an RMP, and did not see any officer do so. PO Bunyi and were on scene for approximately ten to fifteen minutes before they resumed patrol. At 5:04 a.m. PO Stebel was assigned to § 87(2)(b) at § 87(2)(b) Hospital. § 87(2)(b) had injuries to his face, which PO Stebel said were consistent with those in his arrest photograph, however, he did not see how these injuries occurred. At 7:25 a.m. PO Stebel transported § 87(2)(b) to the 75th Precinct stationhouse. § 87(2)(b) did not complain of any injuries to PO Stebel, and did not make any force allegations against any officers.

§ 87(2)(b) was also at the hospital, and PO Stebel observed some minor scrapes on his face.

Witness Officers: PO BRIAN CHRISTEN and PO MARIO GANDINI

- *PO Christen and PO Gandini were assigned to Sector D. See statements for pedigree information.*

Memo Books (encl. 28A – C, 30A – D)

PO Christen and PO Gandini had no memo book entries regarding this incident.

CCRB Statement:

On October 21, 2014, PO Christen and PO Gandini were interviewed at the CCRB (encl. 29A – B, 31A – B). Their statements were consistent, and are summarized below.

PO Christen and PO Gandini arrived on scene at 11:56 p.m. They exited their RMP and PO Christian saw approximately eight to ten officers attempting to effect arrests on two individuals, who were on the ground approximately ten feet away. Based on the amount of officers involved, PO Christen and PO Gandini did not feel they needed to intervene in the arrests. They stayed close to their vehicle and did not have any interaction in the arrests. PO Christen said that the individuals resisted, however, however, he did not recall specifically how they were doing so. PO Gandini did not recall whether they resisted. PO Christen and PO Gandini did not see any officer use force against any of the individuals, and they did not recall how the officers were finally able to apprehend the individuals, or how long the process took. PO Christen and PO Gandini did not see the individuals placed in RMPs for transport, did not see any officer punch any of the individuals in the face while they were in the vehicle. PO Christen and PO Gandini left the scene after ten to fifteen minutes to resume patrol.

Witness Officers: PO STEPHEN BARNES and PO ALGENIS PENA

- *PO Barnes and PO Pena were assigned to Target Auto. See statements for pedigree information.*

Memo Books (encl. 32A – D, 34A – C)

At 12:15 a.m. PO Barnes and PO Pena arrived at Sutter Avenue and Conduit Avenue with PO Vazquez and PO Pena. At 12:20 a.m. PO Barnes transported prisoner § 87(2)(b) DOB § 87(2)(b), to § 87(2)(b) Hospital with EMT Harper § 87(2)(b) in bus #46E, ACR # 606 at Sutter and Conduit. At 12:35 a.m. they arrived at § 87(2)(b) Hospital, prisoner is being seen by Dr. § 87(2)(b) At § 87(2)(b) PO Pena transported § 87(2)(b) to § 87(2)(b) Hospital. At § 87(2)(b) were at § 87(2)(b) Hospital.

CCRB Statement:

On September 24, 2014, PO Barnes was interviewed at the CCRB (encl. 33A – B). On September 25, 2014, PO Pena was interviewed at the CCRB (encl. 35A – B). Their statements are summarized below.

On February 15, 2014, at 12:15 a.m. PO Barnes, PO Pena and PO Vazquez arrived at Sutter Avenue and Conduit Avenue in Queens. Sgt. Downes and PO Little already had the situation under control. PO Barnes and PO Pena did not see any officer use force against any civilian on scene. Sgt. Downes directed PO Barnes to escort § 87(2)(b) to the hospital. PO Barnes observed lacerations and swelling to his face, which he said was consistent with those on his arrest

photograph. PO Pena was instructed to sit in an RMP with one of the civilians, however, he did not recall which. He did so for ten to fifteen minutes until he was relieved. PO Barnes and PO Pena did punch any civilian sitting in an RMP, and did not see any officer do so. At 12:20 a.m. PO Barnes transported § 87(2)(b) to § 87(2)(b) Hospital. § 87(2)(b) refused to provide his name to PO Barnes. He did not mention any force utilized against him at the scene. They arrived at the hospital at 12:35 a.m., and § 87(2)(b) was evaluated by PO Mendelsohn. PO Pena was called to the 75th Precinct stationhouse at 1:50 a.m. to transport § 87(2)(b) to § 87(2)(b) Hospital, and they arrived at 2:00 a.m. PO Pena confirmed the injuries to § 87(2)(b)'s face in his arrest photograph, however, he did not observe them at the time. PO Barnes was relieved by PO Stebel at 5:15 a.m., and PO Pena was relieved by PO Albans at 5:13 a.m.

Witness Officers: PO BRYAN JONES, SGT. THOMAS ORMOND and PO MELCHOR ALBAN

- *PO Jones was Sgt. Ormond's operator. PO Alban was assigned to Sector A/G, worked with PO Jose Martell. See statements for pedigree information.*

Memo Books (encl. 36A – C, 38A – B, 40A - C)

At 11:50 p.m. PO Jones and Sgt. Ormond were on scene. At 11:55 p.m. PO Alban backed sergeant at 78th Street and Sutter Avenue.

CCRB Statement:

PO Jones was interviewed on September 8, 2014, (encl. 37A – B), Sgt. Ormond was interviewed on September 16, 2014 (encl. 39A – B), and PO Alban was interviewed on October 2, 2014 (encl. 41A – B). Their statements did not contribute to the allegations in a substantive manner.

PO Jones and Sgt. Ormond arrived at the incident location at 11:50 p.m., and the incident had concluded. PO Alban and PO Martell arrived at 12:00 p.m. PO Jones, Sgt. Ormond and PO Alban did not see any officer use any force against a civilian.

Officers Not Interviewed

PO Tyler Martell was PO Alban's partner and PO Charles Vazquez was PO Barnes' and PO Pena's third partner. Because PO Alban, PO Barnes and PO Pena arrived after the majority of the incident had concluded and did not contribute anything substantive to the investigation, and because neither officer fit the description of any of the unidentified subject officers (42A – B), PO Martell and PO Vazquez were not interviewed.

Medical Records

§ 87(2)(b)
On February 16, 2014, § 87(2)(b) arrived at § 87(2)(b) Hospital at 2:09 a.m. by ambulance. His primary complaint to medical personnel was facial swelling, and he was diagnosed with an abrasion to the face and a hematoma to the scalp. § 87(2)(b) was given 600 mg of Ibuprofen and discharged at 7:03 a.m. on February 16, 2014.

Medical Treatment of Prisoner Form (encl. 47A)

“At the time and place of occurrence, perpetrator suffered scratches to face while being restrained/placed under arrest.”

§ 87(2)(b)

Because the investigation was unable to interview § 87(2)(b) and HIPPA release forms could not be obtained, the undersigned was unable to obtain his medical records.

Medical Treatment of Prisoner Form (encl. 47B)

“Prisoner sustained lacerations and swelling while fighting officers and resisting arrest.”

NYPD Documents

SPRINT and Roll Call (encl. 43A – 44Q)

Sgt. Downes and PO Little arrived on scene at 11:54 p.m. PO Gandini, PO Christen, PO Alban and PO Martell arrived at 11:56 p.m. PO Stebel and PO Bunyi arrived at 11:57 p.m. The arrests were logged by Sgt. Downes and PO Little 12:04 a.m. on February 16, 2014.

75th Precinct Command Log and Prisoner Holding Pen Roster (encl. 45 – 46E)

At 12:30 a.m. on February 16, 2014, PO Little logged the arrests for § 87(2)(b) and § 87(2)(b) into the command log. All of them were listed as intoxicated, and force was noted as having been used against them. § 87(2)(b) sustained lacerations to his head and face, and he was transported to § 87(2)(b) Hospital from the scene via EMS with PO Barnes. § 87(2)(b) was taken to § 87(2)(b) Hospital at § 87(2)(b) by PO Pena, and returned to the 75th Precinct at 5:40 a.m. § 87(2)(b) and § 87(2)(b) did not have any injuries noted. They were all transported to Central Booking at 9:45 a.m.

IAB Investigation (see IAB casefile)

IAB did not identify any of the subject officers apart from Sgt. Downes and PO Little, and they did not make any findings related to the case before referring the case to the CCRB

§ 87(2)(a) 160.50, § 87(2)(b)

■ [REDACTED]
[REDACTED]
■ [REDACTED]
[REDACTED]

- § 87(2)(c), § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]

Status of Civil Proceedings (encl. 12A – F)

- § 87(2)(b) and § 87(2)(b) filed a notice of claim with the City of New York on May 19, 2014, claiming physical and emotional injuries and distress, and seeking maximum damages allowed under United States and New York State law. To date, no 50-h testimony had been given.
- § 87(2)(b) and § 87(2)(b) have not filed a notice of claim with the City of New York as of September 28, 2014 with regard to the incident.

Civilians CCRB History (encl. 5 – 8)

- § 87(2)(b) [REDACTED]
[REDACTED]
- This is the first CCRB complaint involving by § 87(2)(b) [REDACTED]
§ 87(2)(b) [REDACTED]

Subject Officers CCRB History

- PO Thomas Little has been a member of the service for two years and this is the first CCRB complaint against him (encl. 2).
- Sgt. Sean Downes has been a member of the service for seventeen years and there are four substantiated CCRB allegations against him (encl. 3A – C).
 - In complaint number 200600024, the CCRB substantiated stop, frisk, search of person and search of residence allegations against Sgt. Downes and recommended charges. In June 2010, Sgt. Downes was found guilty of the frisk allegations and charged five vacation days.
- PO David Bunyi has been a member of the service for six years and this is the first CCRB complaint against him (encl. 4).

Conclusion

Allegations Not Pleaded

Because § 87(2)(b) was charged with VTL violations, no vehicle stop was pleaded, as it would constitute an arrest dispute, which is outside of the purview of the CCRB.

Because § 87(2)(b) did not allege that Sgt. Downes spoke discourteously to him as alleged by § 87(2)(b) no discourtesy allegation was pleaded against Sgt. Downes. Similarly, because § 87(2)(b)

§ 87(2)(b) did not allege any force against PO Little as alleged by § 87(2)(b) no force allegation was pleaded against PO Little.

§ 87(2)(b) alleged that officers used physical force against § 87(2)(b) before he was placed in the RMP, however, § 87(2)(b) did not make any such allegations himself. Therefore, no force allegation was pleaded for § 87(2)(b) against officers. Similarly, § 87(2)(b) alleged that an officer hit § 87(2)(b) with a nightstick, however, § 87(2)(b) did not make this allegation himself. Therefore, no force allegation was pleaded for § 87(2)(b)

PO Little called ACS because the circumstances warranted him doing so. As such, any threat to do so was a statement of fact, and no allegation was pleaded against PO Little.

Identification of Subject Officers

§ 87(2)(b) alleged that the officers that stopped him, PO Little and Sgt. Downes, both had their guns drawn when they approached his vehicle. Because PO Thomas Little and Sgt. Sean Downes were the officers that stopped § 87(2)(b)'s vehicle, Allegations A and B are pleaded against them respectively.

According to consistent witness and officer testimony, as well as police documentation, Sgt. Downes was the officer that removed § 87(2)(b) from the vehicle, handcuffed him, and allegedly used force against him. Therefore, Allegation C is pleaded against Sgt. Sean Downes.

Despite the fact that PO Little denied interacting with § 87(2)(b) and § 87(2)(b) alleged that the officer that used force against § 87(2)(b) was PO Little. Therefore, Allegation D is pleaded against PO Thomas Little.

None of the civilians were able to identify any of the officers that interacted with § 87(2)(b) PO Little and PO Bunyi were the only officers that testified that they were involved in § 87(2)(b)'s apprehension. Therefore, Allegations E and F are pleaded against PO Thomas Little and PO David Bunyi respectively.

§ 87(2)(b) and § 87(2)(b) were unable to describe any of the officers that allegedly kicked § 87(2)(b) repeatedly while he was on the ground. § 87(2)(b) testified that he lost consciousness during the incident, and he was unable to provide a description of any of the officers that he interacted with. None of the officers admitted to kicking § 87(2)(b) or seeing any officer doing so. Therefore, Allegation G is pleaded against “officers” from the 75th Precinct.

§ 87(2)(b) described the officer that allegedly punched him while he was in the RMP as a bald, white male, approximately forty years old. He described the officer that punched § 87(2)(b) as a white male with red hair. § 87(2)(b) was unable to describe the officer that allegedly punched him or § 87(2)(b) in the head while they were in the RMP. None of the officers that were listed on the SPRINT and were subsequently interviewed had red hair or were bald, and none of them saw any officer punch a civilian in an RMP. Therefore, Allegation H is pleaded against “an officer” from the 75th Precinct.

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: PO Thomas Little drew his gun.

Allegation B – Abuse of Authority: Sgt. Sean Downes drew his gun.

§ 87(2)(b) alleged that PO Little and Sgt. Downes both approached his vehicle with their guns drawn. He did not make these allegations in his telephone statement, his statements to IAB, or his notice of claim.

None of the other individuals in the vehicle testified that either officer had their guns drawn.

PO Little and Sgt. Downes both testified that they did not have their guns drawn. PO Little stated that Sgt. Downes did not have his gun drawn, however, Sgt. Downes was unable to see if PO Little did so.

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

Allegation C – Force: PO Sean Downes struck § 87(2)(b) with a radio.

§ 87(2)(b) did not provide a statement to the investigation, however, he told IAB that when he refused to throw away his cigarette, Sgt. Downes pulled him out of the vehicle, and pushed him up against the rear of the vehicle. Sgt. Downes pushed § 87(2)(b) onto the street, and hit him on the head twice with a radio. He did not indicate in his statement the point at which he was handcuffed.

In his IAB statement, § 87(2)(b) admitted to having one drink prior to the incident. He was not asked whether he was intoxicated. § 87(2)(b) and § 87(2)(b) both testified that § 87(2)(b) was intoxicated, which was corroborated by the command log. § 87(2)(g)
[REDACTED].

§ 87(2)(b) and § 87(2)(b) both corroborated that Sgt. Downes removed § 87(2)(b) from the vehicle, pushed him against the rear of the vehicle and then handcuffed him. § 87(2)(b) testified that Sgt. Downes punched § 87(2)(b) in the head and back a couple of times, but that § 87(2)(b) did not resist in any way. He did not allege that Sgt. Downes hit § 87(2)(b) with a radio. § 87(2)(b) was unable to see whether Sgt. Downes used any force against § 87(2)(b) from his position in the vehicle. § 87(2)(b) did not give any testimony related to § 87(2)(b).

§ 87(2)(b) did not receive any medical treatment, and his arrest photograph, as well as the photographs taken by IAB, did not show any visible injuries on the part of his head that he said he was struck with the radio. Additionally, the IAB detectives that interviewed him noted no visible injuries at the alleged point of contact. His arrest report noted that force was used against him (restrain/control/remove), however his condition was listed as apparently normal. He did, however, have a small laceration on the left side of his face under his lip.

Sgt. Downes and PO Little testified Sgt. Downes removed § 87(2)(b) from the vehicle, and that § 87(2)(b) resisted arrest. Sgt. Downes testified that he called for additional units with his radio, however, he did not recall whether he struck § 87(2)(b) and PO Little did not see him do so. There were no other officers present at the time of § 87(2)(b) arrest.

§ 87(2)(g)

Allegation D – Force: PO Thomas Little used physical force against § 87(2)(b)

It is undisputed by virtue of § 87(2)(b)'s medical records that he sustained a minor abrasion to his face, which is visible in his arrest photograph, and a hematoma on his scalp.

§ 87(2)(b) did not recall the exact sequence of events, and said that he blacked out for a portion of the interaction. His statements varied greatly in the force that was alleged. In his verified statement, § 87(2)(b) alleged that PO Little punched him in the face and that he fell to his knees. His face made contact with the ground, and PO Little punched him in the head a couple of times. He tried to cover his face with his hands and tried to get up from his knees, thereby necessarily resisting arrest, and PO Little punched him in the head and ribs for approximately five minutes before handcuffing him. In his telephone statement § 87(2)(b) said that he was hit eight to ten times while he was on the ground. In his first IAB statement, taken a few hours after the incident, § 87(2)(b) said that PO Little punched him in the back of the head one time and pushed him up against the vehicle. He was punched in the back of the head and the ribs approximately ten times, was handcuffed, and was then tripped to the ground, causing him to fall and sustain an abrasion on his chin. In his second IAB statement, he said that PO Little threw him to the ground, punched and kicked him several times, and then handcuffed him. In his notice of claim, § 87(2)(b) said that he was repeatedly struck in the head and body before and after he was handcuffed by officers, and that he was struck with an asp and kicked in the ribs. He denied fighting PO Little.

§ 87(2)(b) and § 87(2)(b) testified that PO Little pushed § 87(2)(b) against the side of the vehicle, causing him to fall to the ground. Neither of them mentioned any punches, or described any force as alleged by § 87(2)(b). § 87(2)(b) did not provide any testimony related to § 87(2)(b)'s arrest.

§ 87(2)(b) admitted in his IAB statement that he had a “sip” of vodka at the party prior to the incident, but did not specify whether he was intoxicated. None of the other civilians testified that § 87(2)(b) had been drinking. The command log noted that § 87(2)(b) was intoxicated, however, it was not noted on his arrest report, and PO Little did not recall whether § 87(2)(b) was intoxicated. § 87(2)(g)

PO Little testified that he did not have any direct physical interaction with § 87(2)(b) but that § 87(2)(b) kicked him in the leg during the incident. Sgt. Downes saw PO Little wrestling with § 87(2)(b) and said that he was throwing punches at PO Little, however, Sgt. Downes did not recall what, if any, additional force PO Little used against § 87(2)(b).

§ 87(2)(b) admitted, albeit implicitly, that he was resisting arrest. In § 87(2)(b)'s arrest report, PO Little noted that § 87(2)(b) assaulted him, causing an injury to his right hand, which is corroborated by his AIDED report (encl. 20), and that he refused to handcuffed, flailing his arms and legs. § 87(2)(b)

§ 87(2)(b). PO Little testified that § 87(2)(b) kicked him, and Sgt. Downes corroborated that § 87(2)(b) resisted arrest, wrestling with PO Little and throwing punches at him. § 87(2)(g)

According to Patrol Guide Procedure 203-11, officers are required to use the minimum force necessary to effect an arrest (encl. 1A – B).

§ 87(2)(g)

Allegation E – Force: PO Thomas Little used physical force against § 87(2)(b)

Allegation F – Force: PO David Bunyi used physical force against § 87(2)(b)

It is undisputed by virtue of § 87(2)(b)'s medical treatment of prisoner form and his arrest photograph that he sustained a cut inside the right-side of his bottom lip, for which he received stitches, a cut below the bottom lip, cuts above both left and right eyebrows, and experienced chest pain. It is also undisputed by virtue of § 87(2)(b) and PO Little's testimonies, as well as the command log, that § 87(2)(b) was intoxicated. Lastly, it is undisputed by virtue of § 87(2)(b) PO Little and PO Bunyi's testimonies that § 87(2)(b) resisted arrest after he was out of the vehicle.

§ 87(2)(b) told IAB that he was pulled out of the vehicle by an unidentified officer, who pushed his face into the ground, causing him to black out. § 87(2)(b) testified that after § 87(2)(b) was removed from the vehicle, he was kicked in the face repeatedly by an unknown number of unknown officers while he was on the ground. § 87(2)(b) testified that PO Little punched § 87(2)(b) in the left side of the face, causing him to lose consciousness and fall backwards, hitting the back of his head on the ground. Approximately ten unknown officers repeatedly kicked § 87(2)(b) in the head and the face. § 87(2)(b) was unable to see force against § 87(2)(b) from his position on the other side of the vehicle.

According to PO Little, § 87(2)(b) exited the vehicle, and he ordered him numerous times to get back into it. § 87(2)(b) approached PO Little with his fists clenched in a fighting position. PO Little punched § 87(2)(b) in the face one time, and § 87(2)(b) fell to his knees. PO Little pushed him onto his stomach and attempted to handcuff him, and § 87(2)(b) flailed his arms, punched, kicked and spit at PO Little, refusing to be handcuffed. PO Little kneeled next to § 87(2)(b) and tried to pull his hands behind his back and § 87(2)(b) rolled onto his side. PO Bunyi assisted PO Little by pulling § 87(2)(b)'s arms behind his back. After three to four minutes the officers were able to handcuff § 87(2)(b). PO Little and PO Bunyi denied kicking § 87(2)(b) and did not see any other officer do so.

None of the other officers that were interviewed admitted to being involved in § 87(2)(b)'s arrest, or seeing any officer kick him.

§ 87(2)(g)

_____.

Allegation G – Force: Officers used physical force against § 87(2)(b)
Allegation H – Force: An officer used physical force against § 87(2)(b) and § 87(2)(b)

As discussed above, § 87(2)(b) and § 87(2)(b) alleged that a group of officers, who they were unable to describe, kicked § 87(2)(b) repeatedly in the head and body. § 87(2)(b) and § 87(2)(b) both alleged that two separate officers punched each of them while they were in the back of an RMP.

§ 87(2)(g)

_____.

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date